IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.
CRIMINAL APPLICATION No.2684 of 2007

Shatrughna Baban Sutar ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr V. V. Purwant, Advocate for the Applicant.

Mr K. V. Saste, APP for the State.

CORAM: V. C. DAGA,J.
DATED: 16 8. 2007.

P.C.:-

1. Heard learned counsel for the applicant and the learned APP for the State.

2. Perused application and the material available on record.

3. The applicant is seeking bail in C.R.No.I-193 of 2007 registered with Mahatma Phule Police Station, Kalyan for the offence punishable under Sections 395, 397 of the I.P.C. and under Sections 3 and 25(1-B) of the Indian Arms Act.

4. According to the prosecution, on 25.4.2007 four persons entered in the ready made cloth shop of the complainant, Harish Dattatraya Chaskar and committed dacoity of

valuables including the cash amount. The description of the articles stolen by the thieves have been given in the F.I.R. During the course of investigation, statement of autorickshaw driver came to be recorded; wherein, he has stated that three persons, namely, Arifkhan, Bablu and Shatrughna Sutar were in his autorickshaw. He was asked to stop his autorickshaw opposite to ready-made cloth store of the complainant. Amjadkhan was driving a motor-cycle and Bala Koli was a pillion rider. He had asked the persons who were sitting in autorickshaw to come to ready-made shop. When a call was given by Amjad, two persons out of three (i.e. excluding the present applicant) Shatraghuna alongwith Amjadkhan and Bala Koli went inside the shop and appears to have committed the offence alleged against the accused persons. Prima facie, it appears that the present applicant was person all along sitting in the autorickshaw as per the statement given by autorickshaw driver.

5. In view of the above circumstances, the learned counsel for the applicant submits that in the absence of any clinching material on

record against the applicant, the accused-applicant would be entitled for bail. The learned APP opposed this prayer contending that in a statement under Section 27 of the Indian Evidence Act, the applicant himself has confessed the offence alleged and in view of the confession given by the applicant-accused, amount of Rs.1000/- was recovered from him from his residence. Except this, there is no material on record.

6. Considering rival submissions and material available on record, I am inclined to grant bail to the present applicant-accused in the sum of Rs. 25,000/- with one or two local sureties in the like amount on following terms and conditions.

a. The applicant shall not influence prosecution witnesses or tamper with the prosecution evidence, in any manner, whatsoever.

b. The applicant shall report to the concerned Police Station once in a week on every Saturday between 3:00 to 5:00 p.m. during pendency of the trial.

c. The applicant shall disclose his place of residence to the Investigating Officer as well as the trial Court, where he would stay after the release on bail.

d. The applicant shall co-operate for early disposal of the trial. In the event, the trial Court is of the opinion that the applicant is responsible for delay in trial, that be recorded in Roznama and that can be the basis for cancellation of bail.

e. Any observation made in this order shall not be construed as finding or expression on merits of the case at the time of trial.

7. The application is disposed of in above terms.

(V.C. DAGA,J.)